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Paper No. 12

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ON PETITION

In re Application of :  
John Paul Blouin :  
Application No. 09/982,090 :  
Filed: October 19, 2001 :  
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed June 28, 2004, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is not a final agency decision.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee required by 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action of February 13, 2003. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a continuing application. See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted with the instant petition does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee) or the filing of a continuing application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Melvin Silverman appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is

authorized to represent the particular party in whose behalf he/she acts. However, if Melvin Silverman desires to receive correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. Since counsel failed to include a return address on the petition, this decision is being mailed solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

**By Mail:** Mail Stop PETITION  
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Post Office Box 1450  
Alexandria, VA 22313-1450

**By Hand:** Customer Window  
2011 South Clark Place  
Crystal Plaza 1 Lobby  
Room 1B03  
Arlington, VA 22202

**By Fax:** Attn: Office of Petitions  
(703) 872-9306

Telephone inquiries concerning this decision should be directed to the undersigned at  
(703) 308-6711.

  
Andrea Smith  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

Enclosure: Advisory Action